

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

NATIONAL WILDLIFE REFUGE ASSOCIATION,
et al.,

Plaintiffs,

v.

Case No. 3:21-cv-00096-wmc
(lead)

RURAL UTILITIES SERVICE, et al.,

Federal Defendants,

AMERICAN TRANSMISSION COMPANY, LLC,
et al.,

Intervenor-Defendants.

NATIONAL WILDLIFE REFUGE ASSOCIATION,
et al.,

Plaintiffs,

v.

Case No. 3:21-cv-00306-wmc
(consol.)

U.S. ARMY CORPS OF ENGINEERS, et al.,

Federal Defendants,

AMERICAN TRANSMISSION COMPANY, LLC,
et al.,

Intervenor-Defendants.

UNOPPOSED MOTION FOR EXTENSION OF TIME TO FILE REMEDY BRIEFS

Federal Defendants respectfully request a 7-day extension for all parties of the Court's deadline for submission of all parties' remedy briefs and proposed language for a final judgment. In support of this Motion, Federal Defendants show as follows:

1. On Friday, January 14, 2022, the Court issued an opinion and order finding in favor of Plaintiffs on their claims against the Rural Utilities Service and the Fish and Wildlife Service, and in favor of the Corps of Engineers on Plaintiffs' claims against that agency. ECF No. 43.

2. In its opinion and order, the Court ordered that "the parties . . . brief what additional relief, if any, may be appropriate, including suggested language to be included in a final judgment . . . on or before January 24, 2022." ECF No. 175 at 44.

3. Plaintiffs' complaint in its action against RUS and FWS requests declaratory relief; vacatur of RUS's record of decision and FWS's Compatibility Determination and right-of-way authorization; and an injunction against FWS and RUS. Compl., ECF No. 1, requested relief ¶ 1-6. Federal Defendants' brief on remedy will thus be required to address the propriety of these requests as to both FWS and RUS under the substantial body of statutory and case law on remedies in APA cases.

4. Undersigned counsel is the lead attorney for Federal Defendants with respect to Plaintiffs' claims against RUS and FWS and thus has primary brief-writing responsibility for the upcoming remedy brief.

5. Undersigned counsel's litigation schedule and other work obligations will make preparing a full brief on the various remedy issues in this case by Monday, January 24 very difficult. Among other responsibilities, counsel is lead attorney in two cases with deadlines of Friday, January 21, to submit status reports on various issues. These cases will require counsel's attention during the week leading up to Monday, January 24 to negotiate and draft these status

reports, one of which is anticipated to be lengthy and involve the adversarial presentation of complex legal issues. Counsel is also co-counsel in a complex quiet title case in which Federal Defendants' answer to a 530-paragraph complaint is due January 27, 2022. This pleading will also require substantial time and attention in the week leading up to, and on, Monday, January 24.

6. For these reasons, Federal Defendants request a one-week extension of the January 24 deadline to January 31 to submit remedy briefs. This short extension will allow Federal Defendants to devote the time and attention needed to confer with Federal Defendants and to prepare and submit a brief that will be helpful to the Court in its consideration of remedies without causing undue delay. The short extension will not prejudice other parties, as Federal Defendants' request includes all parties' briefs. Finally, this extension will not interfere with any other existing deadlines in this case.

7. Undersigned counsel for Federal Defendants conferred with Plaintiffs and Intervenor-Defendants on Tuesday, January 18. Counsel for Plaintiffs indicated Plaintiffs' agreement to Federal Defendants' request for a one-week extension, assuming the extension applies likewise to Plaintiffs. Counsel for Intervenor-Defendants indicated Intervenor-Defendants have no objection to the proposed one-week extension, so long as the schedule applies to all parties.

Dated: January 19, 2021

Respectfully submitted,

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